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**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

GARY ZIEROTH, as representative of the estate  
of SHARON ZIEROTH,

Plaintiff,

v.

ALEX M. AZAR II, in his official capacity as  
Secretary of Health and Human Services,

Defendant.

Case No. 3:20-cv-172 (MMC)

**DEFENDANT'S NOTICE OF  
PUBLICATION**

1       The Secretary has previously informed the Court that he is “reconsidering his position on  
2 whether devices such as the continuous glucose monitor at issue here are durable medical  
3 equipment within the meaning of the Medicare statute and regulations.” Bickford Decl. ¶ 3, ECF  
4 No. 25-1; *see also* ECF No. 30 at 7. A notice of proposed rulemaking on this subject is  
5 scheduled for publication in the Federal Register on November 4, and is now available for public  
6 inspection at <https://public-inspection.federalregister.gov/2020-24194.pdf>. A copy of the  
7 document available for public inspection is attached as Exhibit A. The relevant discussion  
8 begins on page 151.

Respectfully submitted this 30th day of October, 2020,

JEFFREY BOSSERT CLARK  
Acting Assistant Attorney General

MICHELLE BENNETT  
Assistant Director, Federal Programs Branch

/s/ James Bickford  
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